



Paper No. 5

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OFFICE OF PETITIONS

In re Application of
Nsonwu, et al.
Application No. 09/697,964
Filed: October 27, 2000
Attorney Docket No. SNY-P4033

ON PETITION

This is a decision on the Petition to Revive on the Grounds of Unavoidable Abandonment, filed October 25, 2002 (Certificate of Mailing dated October 15, 2002), which is being treated as a petition under 37 CFR 1.181 (no fee) to withdraw the holding of abandonment of the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely reply to the Notice to File Missing Parts of Nonprovisional Application, mailed December 26, 2000. This Notice set a period for reply of two months from the mail date of the Notice to submit an executed oath or declaration (and surcharge for its late filing). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. No reply having been received, the above-identified application became abandoned on February 27, 2001. A Notice of Abandonment was mailed on October 4, 2002.

Petitioner contends that he did timely file an executed declaration in response to the Notice to File Missing Parts. In support thereof, petitioner has included, *inter alia*, a copy of postcard receipt, itemizing a "Declaration and Power of Attorney" and bearing a USPTO date stamp of January 12, 2001.

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503.

In view thereof, **the holding of abandonment is withdrawn.**

Given the basis for granting this decision, the petition fee of \$110 will be refunded to petitioner under separate cover.

The application file is being forwarded to the Office of Initial Patent Examination for completion of pre-examination processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-0272.

Cliff Congo
Petitions Attorney
Office of Petitions